



IMMIGRATION AND REFUGEE BOARD
(REFUGEE PROTECTION DIVISION)

LA COMMISSION DE L'IMMIGRATION
ET DU STATUT DE RÉFUGIÉ
(SECTION DE LA PROTECTION DES RÉFUGIÉS)

IN PRIVATE
HUIS CLOS
TA3-22897

s.19(1)

CLAIMANT(S)

DEMANDEUR(S)

DATE(S) OF HEARING

June 2, 2005

DATE(S) DE L'AUDIENCE

DATE OF DECISION

June 20, 2005

DATE DE LA DÉCISION

CORAM

Diane L. Tinker

CORAM

FOR THE CLAIMANT(S)

Ed McNamara

POUR LE(S) DEMANDEUR(S)

REFUGEE PROTECTION OFFICER

E. Lerner

AGENT DE PROTECTION DES RÉFUGIÉS

DESIGNATED REPRESENTATIVE

REPRÉSENTANT DÉSIGNÉ

MINISTER'S COUNSEL

CONSEIL DE LA MINISTRE

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The claimant, , is a citizen of Indonesia. He claims to have a well-founded fear of persecution at the hands of the Islamic extremists and the general Indonesian population by reason of his sexual orientation as a bisexual man. In addition, he claims to be a person in need of protection because he would be subjected personally to a risk to his life or to a risk of cruel and unusual treatment or punishment or to a danger of torture in Indonesia.

ALLEGATIONS:

The claimant alleges that he is bisexual, although he has had no relationship with a man in Indonesia. The claimant stated that he left Indonesia in 1996 and worked on various cruise ships. The claimant returned to Indonesia six times since 1996. The claimant arrived in Canada on August 5, 2003 and filed for refugee protection in November 2003..

DETERMINATION:

I find that the claimant is neither a Convention refugee nor a person in need of protection.

ANALYSIS:**Identity:**

The claimant's oral testimony and the supporting documentation¹ filed establish his identity as a national of Indonesia.

I find that the claimant does not have a well-founded subjective fear of persecution of returning to Indonesia. During his oral testimony, the claimant stated he developed a fear of returning to Indonesia in the 1990's due to the revolution in Aceh. The claimant was then asked as to why he returned six times to Indonesia, including Aceh, having left to go the United States in 1996. The claimant stated that he did not know he could claim refugee protection. I reject this explanation. The claimant, who has fourteen years of formal education, could have made serious efforts to find out information about refugee protection. Moreover, when he did re-avail himself to Indonesia, the claimant could have avoided Aceh by going to other islands such as Bali. When asked as to what efforts he made to seek refugee protection either in Canada or the United States, the claimant indicated that a friend of his looked on the Internet to obtain information about refugee protection. When asked as to when he started looking on the Internet, the claimant stated that after three months in 2003. I reject this explanation, as the claimant, having left Indonesia in 1996, did nothing to seek refugee protection or obtain some kind of legal

¹ Exhibit R/A-2, Citizenship and Immigration Canada documents, including photocopy of Indonesian passport and Seaman's book.

status in either Canada or the United States for approximately seven years. Moreover, the claimant was asked why he could not return to Indonesia today. The claimant initially stated that the place where he lived was destroyed by the tsunami. The claimant was then asked as to why he could not live in Jakarta or Medan, to which the claimant stated that he would find it difficult to find work there. The claimant was asked again as to what he fears other than employment difficulties. The claimant then stated he would be afraid for his own safety. In summary, the cumulative effect of the claimant re-availing himself six times to Indonesia, his failure to seek refugee protection for approximately seven years and his failure to initially state that he did not want to return because of fear of his own safety, I find that the claimant does not have a well-founded subjective fear of persecution in Indonesia.

I also find that there is no objective basis for the claimant's fear of persecution in Indonesia. There is no reference to homosexuals in the United States Department of State report² and the Research Directorate and news report.³ One report states that homosexuals would face discrimination from their families, but being a homosexual is not against the law and that gays are seldom targets of violence and that gays are generally accepted by society. The Research Directorate does refer to only one case where a person feared persecution from his own family. The claimant was asked as to his

² Exhibit R/A-1, item 2.1, United States Department of State Report, February 2004.

³ Exhibit R/A-1, item 6.1 and item 6.2.

knowledge with respect to persecution in Indonesia, the claimant stated it was "in the news". The claimant was asked the question again and he indicated that he could not live on any island in Indonesia and feels it is more suitable to live in Canada. I therefore find that the claimant was unable to provide any independent documentary evidence to support his fear of returning to Indonesia as a bisexual man.

CONCLUSION:

I determine that the claimant is neither a Convention refugee nor a person in need of protection. The Refugee Protection Division therefore rejects his claim.

"Diane L. Tinker"
Diane L. Tinker

DATED at Toronto this 20th day of June, 2005.